

**UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

File No. 1:07-CV-00953

RYAN McFADYEN, MATTHEW WILSON;
and BRECK ARCHER,

Plaintiffs,

vs.

DUKE UNIVERSITY; DUKE UNIVERSITY
POLICE DEPARTMENT; AARON
GRAVES; ROBERT DEAN; LEILA
HUMPHRIES; PHYLLIS COOPER;
WILLIAM F. GARBER, II; JAMES
SCHWAB; JOSEPH FLEMING; JEFFREY
O. BEST; GARY N. SMITH; GREG
STOTSSENBERG; ROBERT K. STEEL;
RICHARD H. BRODHEAD, Ph.D., PETER
LANGE, Ph.D., TALLMAN TRASK, III,
Ph.D.; JOHN BURNES; LARRY MONETA,
Ed.D.; VICTOR J. DZAU, M.D.; ALLISON
HALTON; KEMEL DAWKINS; SUZANNE
WASIOLEK; STEPHEN BRYAN;
MATTHEW DRUMMOND; DUKE
UNIVERSITY HEALTH SYSTEMS, INC.;
PRIVATE DIAGNOSTIC CLINIC, PLLC;
JULIE MANLY, M.D.; THERESA ARICO,
R.N.; TARA LEVICY, R.N.; THE CITY OF
DURHAM, NORTH CAROLINA; MICHAEL
B. NIFONG; PATRICK BAKER; STEVEN
CHALMERS; RONALD HODGE; LEE
RUSS; STEPHEN MIHAICH; BEVERLY
COUNCIL; EDWARD SARVIS; JEFF
LAMB; MICHAEL RIPBERGER; LAIRD
EVANS; JAMES T. SOUKUP; KAMMIE
MICHAEL; DAVID W. ADDISON; MARK
D. GOTTLIEB; BENJAMIN W. HIMAN;
LINWOOD WILSON; RICHARD D.
CLAYTON; DNA SECURITY, INC.;
RICHARD CLARK; and BRIAN MEEHAN,
Ph.D.,

Defendants.

DEFENDANT MARK GOTTLIEB'S MOTION TO DISMISS

Defendant Mark Gottlieb, appearing through the undersigned counsel, hereby moves the Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss all cause of action asserted in the Amended Complaint against him (specifically, Causes of Action 1-4, 6-7, 9-10, 16, 18-20, 23, 25 and 27) on grounds that these claims, as they apply to Defendant Gottlieb, fail to state a claim upon which relief can be granted. This Motion is supported by the Memorandum in Support of Defendant Mark Gottlieb's Motion to Dismiss, which is being filed simultaneously herewith.

POYNER & SPRUILL LLP

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Attorneys for Defendant Mark Gottlieb

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on July 2, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

James Donald Cowan, Jr.
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This the 2nd day of July, 2008.

By: /s/ Edwin M. Speas, Jr.